

(2006) 12 MAD CK 0093

In the Madras High Court

Case No : Writ Petition No's. 3039 to 3042 and 3196 to 3199 of 1999 and 3438 of 1998

The Superintending Engineer

APPELLANT

Vs

The Presiding Officer, Labour Court and Others

RESPONDENT

Date of Decision : 08-12-2006

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)
Payment of Gratuity Act, 1972 — Section 14

Citation : (2007) WritLR 417

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Yamunadevi, for the Appellant;

Final Decision : Allowed

Judgement

K. Chandru, J.—In all these writ petitions, the second respondent workmen were all retirees from the Tamil Nadu Electricity Board [for short "Board"]. After the pension scheme was introduced to them with effect from 01.7.1986, they are governed by the Pension Rules evolved by the Board. Before the introduction of the pension and Death ? cum Retirement Gratuity (for short, "DCRG"), they were paid Contributory Provident Fund [for short, "CPF"], together with a special contribution paid by the Board for the long service put in by the persons who were paying CPF. In addition to that, they were eligible for gratuity under the Payment of Gratuity Act, 1972 [for short, "Act"].

2. However, the Board has got an exemption from the application of the Act with effect from the date of the Act. The Pension Rules themselves show that they will not apply to persons who are covered by the CPF scheme. In view of the fact that the petitioners were brought under the Pension Scheme, the amounts standing to their credit in the CPF account were transferred to the pension account.

3. Notwithstanding these facts, the respondent workmen have approached the

Labour Court u/s 33(C)(2) of the Industrial Disputes Act [for short "I.D. Act"] claiming the amount of special contribution to be paid by the Board under the CPF Scheme stating that they were eligible for the same.

4. In their Claim Petition, they also relied upon the decision of the Supreme Court reported in *Katheerja Bai Vs. Superintending Engineer and Others*, in support of their claim. However, that was a case where the Board pleaded that once a person is covered by the CPF Scheme and also paid special contribution over the CPF, they were not eligible to get gratuity in terms of the Act as it would amount to double benefit. According to the Board, if the special contribution is made to the CPF Scheme, that itself is some kind of a gratuity for the long service rendered by them and they are not eligible for the gratuity in addition to the special contribution to CPF. In the light of the non-abstentive clause u/s 14 of the Payment of Gratuity Act, the Supreme Court held that a retiree under the CPF Scheme is also eligible for gratuity under the Payment of Gratuity Act in addition to the special contribution to CPF. But the said judgment is not an authority for the proposition that a CPF retiree will also get pension and DCRG or in the alternative, a person, who is eligible to get pension and DCRG will also get CPF and special contribution to CPF.

5. Unmindful of these factors, the respondent workmen have approached the Labour Court. Despite the fact that the writ petitioner Board contended that they are not eligible for double benefit and it was also brought to the notice of the Court that these workmen have been paid family pension and DCRG, the Labour Court without application of mind, computed the amounts without there being any legal entitlement in favour of the workmen. They also relied upon some unreported decisions of this Court in support of their contention. However, the writ petitioner Board has filed a batch of writ petitions challenging the order of the first respondent Labour Court in computing the amounts in favour of the workmen.

6. I have heard Ms. V.Yamunadevi, learned standing counsel appearing for the petitioner Board and some counsel for the respondent workmen and have perused the records.

7. This Court in several batch of writ petitions has held that the workman of the Board is not entitled for double benefit and the CPF Scheme and the pension scheme are mutually exclusive. This Court [N.V. Balasubramanian, J.] in W.P. No. 12082 of 1991, etc. batch, by order dated 21.12.1999 has allowed similar writ petitions filed by the Board. Again, this Court [K. Raviraja Pandian, J.] in W.P. No. 8343 of 2000, etc. batch, vide order dated 23.01.2001 allowed several writ petitions and quashed the orders of the Labour Court. Once again, in W.P. Nos. 425 to 427 of 2001, etc. batch, the writ petitions were allowed by this Court [Elipse Dharma Rao, J.] by a common order dated 17.01.2006. Again, in W.P. Nos. 169 and 170 of 2001, by order dated 16.10.2006, similar writ petitions were allowed by this Court [R.Banumathi, J.] and the orders of the Labour Court were quashed and these orders have become final. I am in agreement with the ratio

laid down in these cases.

8. In the light of the above, this Court has no hesitation to quash the orders of the first respondent Labour Court and all the writ petitions shall stand allowed. However, there will be no order as to costs.